

# MTL takes an aggressive stance on clear cutting practices

Devan Miller  
Menominee Nation News

The Menominee Tribal Legislature (MTL) has been quite busy dealing with the clear cutting practices on the Menominee Indian Reservation.

After much discussion, during the Regular Meeting of the Menominee Tribal Legislature on Thursday, April 21, 2005, a motion was passed prohibiting all clear cutting including shelter wood, effective immediately. The action was approved by a vote of 8 for, 1 opposed.

In a statement issued on April 22, 2005, Menominee Tribal Chairman, Michael Chapman stated, “The Legislature is committed to working with Menominee Tribal Enterprises on a strategy that will keep MTE and our loggers working in the coming months.” Chapman explained that because the prescription process was started so late this year, the Legislature didn’t have time to voice their concerns earlier. He stated, “We know our actions are drastic, but we are dedicated to resolving this stalemate and learning as much as possible in the coming days, weeks and months to ensure that future generations can enjoy the beauty of our Menominee forest.”

See **CLEAR-CUTTING** pg.3

# Continued Special General Council Meeting on Forestry



F.Alegria/Menominee Nation News

The Menominee Tribal Legislature (left) and Menominee Tribal Enterprises Board of Directors (right) continue their recess Special General Council meeting on Saturday, April 23, 2005, held at the Menominee Tribal School.

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On Saturday, April 23, 2005 the Special General Council Meeting on Forestry between Menominee Tribal Legislature (MTL) and the Menominee Tribal Enterprise (MTE) reconvened from March 26, 2005. The Special General Council was held at the Menominee Tribal School in Neopit.

The meeting began with roll call by Menominee Tribal Chairman, Michael Chapman. Present for the Legislature was,

Vice Chairperson Annmarie Johnson, Tribal Secretary Theodore Warrington, along with Legislators; Laurie Reiter, Kenneth A. Fish, Laurie Boivin, Stephanie Awonohopay and Karen Washinawatok. Absent was Legislator Gary Besaw who was excused.

MTE Secretary Melinda Cook handled roll call for the Menominee Tribal Enterprise Board of Directors. Present for the board was; Chairman Joseph Besaw Sr., Vice Chairman Ben Kaquatosh, Myron “Pat” Grignon, Linda Caldwell, Arthur Chapman, Doug Cox Sr., Jim

Kaquatosh, Davey Jean Peters, Jackie Pubanz, Louis Washinawatok, Edwin Wilber. Absent was Jerrilyn Grignon.

The Menominee prayer was said by Mr. Kyle Grignon. Mr. Eugene Caldwell was present to continue his elected Tribal Council duty as Chairman of the Special General Council Meeting.

See **FORESTRY MEETING** pg.5

# One of two eagles found on reservation returned to the wild



F.Alegria/Menominee Nation News

The female eagle was released back into the wild on Thursday, April 28, 2005.

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## **Tribes granted temporary restraining order Clear-cutting continued from front page**

During the April 21, 2005 meeting, after individual tribal legislators expressed concern regarding some of the cuts that occurred along Highway 55 and along some wetlands in that area another motion was passed unanimously that all buffers be reinstituted by all roads and wetland areas. The MTL/MTE Task Force was also charged with the responsibility of providing a full assessment regarding all aspects of the prescriptions, and to bring recommendations to the Menominee Tribal Legislature at a Special Meeting on Thursday, April 28, 2005.

When the MTL met on April 28, 2005 to review the recommendations of the MTL/MTE Task Force, many Menominee Tribal members and loggers were in attendance to voice their concerns and oppositions to certain forms of clear cutting. Those in attendance were especially concerned with the form of clear cutting taking place in pine stands, and the lack of replanting efforts on the part of MTE in those clear cut areas. Tribal Members also expressed concern about the Reservation's scenic roadways and how clear cutting has damaged them. In an interview with Joseph Besaw, MTE Board of Directors Chairman, he explained that these practices have been done for years and are to benefit the future generations down the road. "No one likes how it looks," he said about the clear cut areas along the roadways. He explained the clear cutting was on trees that are 150-200 years old and a trees mortality rate is near 180 years. He also mentioned that there is 15,000 acres that need to be worked on. Besaw explained that after a tree reaches beyond its' morality rate, it starts to get diseases and in turn causes poor quality hardwood. In a comment in regards to the regeneration or replanting, Besaw stated, "We need to know the science of it, educate ourselves." He stated that after three years if natural regeneration doesn't work, then they (MTE) re-plant. "We need a healthy diverse forest," he added. He also shared that our forefathers used to burn areas. Another area of concern during the April 28, 2005 meeting was MTE's bidding practices that some said appeared to favor non-Menominee Logging contractors over Menominee contractors. Besaw stated that some non-Menominee contractors are used because not all Menominee contractors have the necessary equipment.

After hearing from many concerned Menominee Tribal members and Menominee loggers who would be most impacted by the decisions, the Menominee Tribal Legislature made the following motions on April 28, 2005:

- \* Motion by Kenneth A. Fish to recommend to Menominee Tribal Enterprises for the 2005-2006 summer cut that Menominee Bids awarded stay and all other specified bids will be re-bid utilizing and in compliance with Menominee Preference (82-10) and P.L. 93-638 Indian Preference. Seconded by Karen Washinawatok. Motion Carried: 7 for, 0 opposed, 1 abstention (Laurie Reiter) and 0 absent.

- \* Motion by Kenneth A. Fish that for the 2005-2006 Cutting Season, the 1st Shelter Wood Cut employ single-tree selection. Seconded by Laurie Reiter. Motion Carried: 7 for, 1 opposed (Gary Besaw), 0 abstentions and 0 absent.

- \* Motion by Gary Besaw to resume all prior Aspen cuts to completion. Seconded by Theodore Warrington. Motion Carried: 7 for, 1 opposed (Laurie Boivin), 0 abstentions and 0 absent.

Note: Laurie Boivin qualified her vote due to being opposed to clear cut in general.

- \* Motion by Laurie Reiter to allow the final cut of White Pine under the following conditions: if it is regenerating, then its okay to cut provided there are 1,000 seedlings per acre and if it is not regenerating, then don't cut any White Pine unless there is proof that dollars are available for replanting. Seconded by Theodore Warrington.\*\*Amendment by Laurie Boivin that reasonable buffers are a part of the final cuts including wetlands and roadways, the archeological sites are protected and it's specific to the 2005-2006 summer bid awards.

Seconded by Karen Washinawatok. Motion Carried: 8 for, 0 opposed, 0 abstentions and 0 absent. \*\* Motion Carried: 8 for, 0 opposed, 0 abstentions and 0 absent.

\* Motion by Annmarie Johnson to approve the Conversion Schedule to be cut this summer 2005-2006. Seconded by Gary Besaw. Motion Carried: 7 for, 1 opposed (Laurie Boivin), 0 abstentions and 0 absent. Note: Laurie Boivin qualified her vote due to being opposed to clear cut in general.

\* Motion by Gary Besaw to approve the 2005-2006 Summer Aspen because they are natural regenerated cuts. Seconded by Annmarie Johnson. Motion Carried: 7 for, 1 opposed (Laurie Boivin), 0 abstentions and 0 absent. Note: Laurie Boivin qualified her vote due to being opposed to clear cut in general.

The Menominee Tribal Legislature felt these actions would reinforce Menominee Preference and the bidding process, while also ensuring that all Menominee loggers would have work in the short term, while the shelter wood cuts are remarked for single tree selections. The motions were intended to convey MTL's position on the planned cut and its disappointment over MTE's bidding process.

During a meeting on Friday, April 29, 2005, the MTE Board of Directors moved to allow the logging year 2005-2006 to proceed with the cuts as scheduled, ignoring the actions of the Menominee Tribal Legislature. This motion passed by a vote of 5 for, 3 opposed (Doug Cox, Linda Caldwell, and Davey Jean Peters, and 3 absent (Jerilynn Grignon, Jackie Pubanz, and Ben Kaquatosh). The cuts began early May 2, 2005.

When the Menominee Tribal Legislature became aware of this action, an emergency meeting was called on Monday, May 2, 2005 to address this issue. After nearly 8 hours of careful deliberation, MTL took the following actions:

\* Motion by Kenneth A. Fish to send a packet of all the information to Attorney Jerry C. Straus (of Hobbs Straus Law Offices) in reference to the Trust Responsibility and that the expenses come out of the Chairman's Budget. Seconded by Laurie Boivin. Motion Carried: 7 for, 0 opposed, 0 abstentions and 1 absent (Gary Besaw).

\* Motion by Kenneth A. Fish to send a letter to the Bureau of Indian Affairs in reference to Breach of Trust Responsibility. Seconded by Laurie Boivin. Motion Carried: 7 for, 0 opposed, 0 abstentions and 1 absent (Gary Besaw).

\* Motion by Stephanie Awonohopay to approve the Corrective Action Plan BIA Non-Compliance Issues, as corrected. Seconded by Theodore Warrington. Motion Carried: 7 for, 0 opposed, 0 abstentions and 1 absent (Gary Besaw).

\* Motion by Laurie Reiter to develop an Emergency Ordinance supporting the Motions of April 28, 2005 at that it be presented to the Tribal Legislature on Thursday, May 5, 2005. Seconded by Theodore Warrington. Motion Carried: 7 for, 0 opposed, 0 abstentions and 1 absent (Gary Besaw).

\* Motion by Kenneth A. Fish that the Chairman issues an immediate Advisory and hold a Press Conference (re actions taken at tonight's meeting). Seconded by Laurie Boivin. Motion Carried: 7 for, 0 opposed, 0 abstentions and 1 absent (Gary Besaw).

\* Motion by Theodore Warrington to begin the process of the removal of 5 members of the MTE Board of Directors for non-compliance and failure to adhere to the Menominee Tribal Legislature's Actions of April 28, 2005 and continuing the policy of clear cutting. Seconded by Annmarie Johnson. Motion Carried: 8 for, 0 opposed, 0 abstentions and 1 absent (Gary Besaw). Note: Chairman was asked to vote on this issue.

\* Motion by Annmarie Johnson to authorize our Attorneys to file a request for an Injunction against Menominee Tribal Enterprises for any Logging Activities not in compliance with the Menominee Tribal Legislature's Motions of April 28, 2005. Seconded by Karen Washinawatok. Motion Carried: 7 for, 0 opposed, 0 abstentions and 1 absent (Gary Besaw).

In a weekly message from the Menominee Tribal Chairman, Chapman stated, "These actions again seem drastic, but as a government we had no other choice but to proceed in this fashion since all our efforts toward brokering some compromise around the clear cutting were ignored."

MTE Board Chairman, Joseph Besaw said, "We would like to work with the Menominee Tribal Legislature but it's really difficult to work like this."

As a result of the May 2, 2005 actions the Tribe's Attorneys filed a motion with the Menominee Tribal Courts on Tuesday, May 3, 2005 and was granted a temporary restraining order (TRO) without notice and without bond, against MTE by the Honorable Judge Wendell Askenette. The TRO will prevent MTE from taking the following actions:

- \* Harvesting of white pine on the Menominee Indian Reservation via the Shelter wood-first cut silvicultural system

- \* Harvesting of white pine on the Menominee Indian Reservation via the shelter wood-final cut silvicultural system until such time that there is proof that the areas to be harvested pursuant to this silvicultural system are either A. regenerating at a rate of 1000 seedlings of white pine per acre, or B. defendant provides proof that it has set aside adequate monies to replant white pine in these areas at a rate of 1000 seedlings of white pine per acre

- \* Harvesting of any timber on the Menominee Indian Reservation via clear cutting or shelter wood-final cut silvicultural system unless such harvesting allows for a reasonable buffer between the harvesting activity and any wetlands, streams, rivers, roadways, and identified archeological sites.

Based on the information filed with the Menominee Tribal Courts, it appeared that there is a necessity for injunctive relief because

- \* Plaintiff (Menominee Indian Tribe) stands to suffer the injury of the loss of its forest assets

- \* Such loss is irreparable as once the trees are harvested the nature of the asset is irretrievable changed.

The order was granted without notice because the irreparable harm stated would have already taken place by the time a motion could be heard under the general rules of Civil Procedure. No bond was required of the Plaintiff pursuant to Menominee Nation Ordinance 79-14. The order was issued pursuant to Menominee Tribal Court Rule of Civil Procedure 33(i). The temporary restraining order will expire after the Menominee Tribal Court hears the Tribe's application for preliminary injunction on May 13, 2005. At that time a hearing will be held to determine whether the ruling should be permanent or not.

In regards to the court date, MTE Board Chairman, Joseph Besaw shared, "We were told ten days from the date of issue." However, MTE is questioning the court date of May 13, 2005 since it falls on Native American Day and the Tribe recognizes this day as a holiday. In spite of this, Besaw stated, "Our guys are out of the forest and logging has stopped in areas."

The Menominee Tribal Legislature has also instructed the Tribal Attorney's to develop an amendment to the Forest Management Plan that would provide MTL with the opportunity to review and approve silvicultural (cutting) practices prior to them being forwarded from MTE to the BIA. This ordinance and Amendment was considered at the Regular Meeting of the Menominee Tribal Legislature on Thursday, May 5, 2005, however results of that meeting were unknown by Menominee Nation News print deadline. Also the removal proceeding against the five MTE Board members that voted to proceed on the planned cut will commence at a date and time not yet established.

The Menominee Tribal Legislature is confident that its actions best represent the views of the Menominee people, the interests of the Reservation's plant and wildlife, and the wellbeing of future generations. However, Besaw stated this hurts future generations as well as the current Menominee workers at the enterprise. "We may have to lay jobbers off for 6-10

weeks,” he said. However it is the sincere hope of the legislature that MTE Board and the members of the community will understand that its actions “are not intended to harm the many fine employees of MTE, its subcontractors, and their families, but is instead intended to protect and promote one of the Tribe’s most cherished resources-The Menominee Forest,” Tribal Chairman Michael Chapman said in a statement released on May 3, 2005. Menominee Nation News will keep you updated on any further developments in regards to this issue.

## **Forestry Meeting continued from front page**

Edmund Waubanasum was appointed as Sergeant at Arms.

Included with the Meeting Agenda was an Official Press Release by the Menominee Indian Tribe of Wisconsin, dated April 22, 2005 and said: {MENOMINEE TRIBAL LEGISLATURE TAKES ACTION TO STOP CLEAR CUTTING OF THE MENOMINEE FOREST

The Menominee Tribal Legislature passed a motion on Thursday, April 21, 2005 to “prohibit all clear cutting including shelter wood, effective immediately.” The action was approved by a vote of eight to one. Michael Chapman, Menominee Tribal Chairman stated “The Legislature is committed to working with Menominee Tribal Enterprises on a strategy that will keep MTE and our loggers working in the coming months.” He went on to say “unfortunately, the prescription process got started so late this year that the Legislature did not have time to voice their concerns earlier. We know our actions are drastic, but we are dedicated to resolving this stalemate and learning as much as possible in the coming days, weeks and months to ensure that future generations can enjoy the beauty of our Menominee forest.”

The Legislature passed another motion that stated “that buffers be reinstituted along all roads and wetland areas.” This action was approved after individual tribal legislators expressed concern regarding some of the cuts that occurred along State Highway 55 and along some wetlands in that area.

In addition, the Legislature requested that the Menominee Tribal Enterprises/Menominee Tribal Legislature (MTE/MTL) Task Force meet as soon as possible regarding all aspects of the prescriptions and that a full assessment be done and that recommendations be brought back to the Legislature at a Special Meeting on Thursday, April 28, 2005.}

As Chairman Caldwell took over the meeting, he asked for volunteers to be tellers. Joann Eisfelder and Mark LaTender took the responsibility of counting the votes on the council floor. The “Sergeant at Arms” was again Ed Waubanasum.

Chairman Caldwell opened up the floor for discussion of agenda item 6. Stumpage. One gentleman, a Menominee elder, from the floor raised important questions and comments. “I think the people have a right to know, the Board of Directors should be responsible and held accountable every year for where the money goes. It should be paid out to the people, in stumpage. Every year, I think it’s only right”

Dave Congos, BIA Forester, shed some light on the issue, “In 2000, I approached Larry Waukau and asked what he was going to do, in regards to payment to the people. He implied there would be, he said he was working on something. After some time expired, what I ended up doing was writing a letter to Mr. Waukau and he informed me that the Bureau had no interest in this matter, and that was in January of 2001.” He continued, “At the time, what I explained was that timber assets were held in trust by the Bureau for the Menominee People. And the issue was, that if this timber was going to be released, by MTE, or through anyone, and that timber is sold, there has to be accountability to the people for the value of that timber that’s entrusted. And if that timber was sold at a higher value, that accountability I felt, that it

would be in trust.” I also brought this up to the Legislature in 2001 – 2002 and basically used the same argument. At that time I continued discussion with the Legislature I believe that’s the ‘Stumpage Ordinance.’ There still was not stumpage payable and accountability. I am still unsure about that, there is no agreement or consensus between either myself, the BIA, or the MTE or Legislature. My concern was that we have an annual breach of trust.” Dave Congos also said, “Once again the Federal Government holds the timber in trust for the people.” A strong voice from the audience was Alex Peters. Mr. Peters stated, “As elected members of the Board of Directors, each and every one of you individuals up there are charged with management of our funds and the main business of our Tribe as it pertains to all the tribal members on the Reservation and abroad. Lets get back to that, each one of us should be brought up to what’s going on here. It is in our Constitution. It states in article 13, Tribal Businesses, due to the relationship with the Tribal Businesses and the Tribal Legislature, in fact it is written that each Tribal Business shall be subject to the authority and control of the Board of Directors. The elected Directors and the Manager sees to it that things are run right and we should be brought up to date on this.” Mr. Peters also added, “The power of the Tribal Legislature shall maintain all authority and power to exercise all proper, governmental and Sovereign functions over the Tribal Businesses and over property managed and owned by the Tribal Business. Property of such Tribal Businesses shall be shared with the Tribe on a regular basis, regular, now I emphases this, REGULAR reports on the financial status of such Tribal Businesses shall be made to the Tribal Legislature and each Tribal member. Now these are laws that were set forth by past Legislators. These are laws that we shouldn’t deviate from. I can not accept the answer of “We don’t know.” “That is your job.” “Things like this, should not be over looked, it’s our law, it’s a responsibility of our Constitution to abide by it. Everybody has a legitimate question and every question is asked about our financial status and what’s going on, every question should be asked and you should have an answer to these questions.”

(\*Motion made to have something put out in the paper monthly. I make a motion that all the monthly sales of our logs, hardwood, softwood, high grade, low grade, soft wood pulp, hardwood pulp. I know we got a record at the Forestry Center that we can have an accurate account of what’s going on, make known to the public and the people here in Tribal News. Second by Greg Wilber.

Amendment to the motion by Evelyn LeRoy to mail the information to every tribal member. A lot of questions were raised as to what information is to be placed in the Tribal News. One suggestion was the going prices on the market of the trees. Another question was; what is the current rate of stumpage of a tree? And place that information in the Tribal News. There were a lot of important questions regarding the Stumpage issue.

Jackie Pubanz from the M.T.E. Board of Directors offered, “On two separate occasions at the MTE Board Meetings of 2003 a motion was made by a board member to put the stumpage value in the paper. In October, a current Legislator who is newly seated made the same motion that the value of our resource be put in a financial statement on a monthly basis and put it into a financial report.”

Linda Caldwell from M.T.E. Board said, “When I worked at Forestry I recorded the sales from the time the loggers started logging, which back then, was June 1st all the way up to spring break up which was the middle of March, we sold close to 4.7 million dollars worth of pulp wood and bolt wood. Those are actual sales.” She went on to say, “The Menominee People need to take back the interest in their forest and how much it is worth. Do not sit back and let people tell you how worthless it is, it is not. You have a highly priced item here that is yours.” After a very lengthily discussion by many concerned tribal members and board members the motion was still on the Tribal Council floor. Emotions ran high throughout the day and as

interest grew many people became more aware of the matter. As the motion finally passed there was a huge round of applause.

Douglas Cox from the M.T.E. Board of Directors stated, "One of the things I spoke of in my campaign for this board was that there was an accountability issue here. I was going to help get that out to the people, help to get that done." He added, "Another thing we have is an ordinance passed by the Tribe #02-22. It's called Stumpage Ordinance. Board members are pushing very hard to get this passed on the Board. In November a motion was made to pay stumpage to Tribal members as part of that Ordinance. I voted for it, that motion was defeated 7-5, what you ended up with is Excess Profit, that is how you get the \$100.00. That is not stumpage as per the Ordinance. There is a responsibility that we have to follow Ordinances of this Tribe. To follow through with actions of the Tribal Legislature and respect their decisions in a vote, this is going to come before them within 30 days."

The Special General Council Meeting consisted of many concerned Menominee members, about the forest and what's going to happen in the future, will our young ones have a chance to see the forest as we see it today, or even 20 years ago? The forest that the Menominee people had protected years ago. These types of concerns were discussed throughout the meeting.

It is good that the M.T.L. and M.T.E. has these Special General Council meetings so that the Menominee community has a chance to speak and ask questions of the matter. Many good questions were asked at the Special General council, but now all that is left is for action to be taken to protect our forest.

Motions made during the General Council are as follows:

- Motion by Greg Wilber that people that sit on the Board of Directors that have managerial jobs should not be on Board of Directors, that's a conflict of interest, they're only protecting themselves, only protecting their jobs, and only protecting their pocketbooks. Seconded by Evelyn Leroy. Motion carried: 42 for, 13 opposed, and 2 abstentions.
- Motion by Alex Peters to have all monthly sales of bark, logs, hardwood and soft wood, high select and low-grade, softwood pulp, hardwood pulp, going off the Reservation be known to the Menominee People here, in Tribal News every month. Seconded by Greg Wilber. Motion carried: 56 for, 20 opposed, and 2 abstentions.
- Motion by Llewellyn Boyd to have a Special General Council to look at the Menominee Constitution and Bylaws; and have some of the former players, including Supreme Court Chief Justice Robert Kittecon, have them assist us in looking at our living document. Seconded by Frieda Bergeon. Motion carried: 82 for, 0 opposed, and 3 abstentions.
- Motion by Joan Webster that the Menominee Tribal Legislature and the MTE Board visit the issue of allowing loggers to be first in bidding by amending Ordinance 82-10 Tribal Preference. Seconded by Rose Schanadore. Motion carried: 54 for, 0 opposed, and 0 abstentions.
- Motion by Evelyn Leroy that this person (Dan Leonard, MTE H.R. Department) be removed and banished from our Enterprises and from our Tribe. Seconded by Rose Goodwill. Motion carried: 36 for, 12 opposed, and 4 abstentions.
- Motion by Alex Peters that the Menominee Indian Tribe of Wisconsin direct their Internal Audit Department to prepare a preliminary audit on MTE's Human Resources Department to determine if the Employee Handbook is properly being enforced; specifically targeting area of Grievances; hiring practices (82-10); drug-free workplace policy and procedures; and bring back within 30 days. Seconded by Maggie Escalante. Motion carried: 57 for, 0 opposed, and 0 abstentions.

\*\*Appointments (Note: Not on the agenda, but necessary for business.)

-Eugene Caldwell resumed the chairmanship of Recessed meeting

-Kyle Grignon said the Menominee Prayer

-Mark Latender and Joanne Eisfelder were appointed as Tellers for the Meeting

-Edmund Waubanasum was appointed as Sergeant-at-Arms.

The Menominee Tribal Legislature will take the motions made during the general council meeting under advisement and has 30 days to act on them.